

CALIFORNIA BOARD OF ACCOUNTANCY REGULATIONS

CALIFORNIA CODE OF REGULATIONS TITLE 16. Professional and Vocational Regulations DIVISION 1. Board of Accountancy Regulations

ARTICLE 4. PRACTICE PRIVILEGES (Sections 26 - 35.1)

Section 26. Purpose of this Article.

This Article implements Article 5.1 of the Accountancy Act (commencing with Business and Professions Code Section 5096) related to Practice Privileges.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.
Reference: Sections 5096 – 5096.11, Business and Professions Code.

HISTORY:

1. New article 4 (sections 26-35.1) and section filed 12-12-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50). For prior history of article 4 (sections 25-29), see Register 2000, No. 5.

Section 27. Qualifications for the Practice Privilege.

To be eligible for a practice privilege, an individual whose principal place of business is not in California and who holds a valid, current license, certificate, or permit to practice public accountancy issued by another state shall meet the requirements of Business and Professions Code Section 5096 including, but not limited to, satisfying one of the following:

(a) Hold a current, valid license, certificate, or permit issued by another state, if the requirements under which that license, certificate, or permit was issued are deemed by the Board to be substantially equivalent to the requirements in Business and Professions Code Section 5093;

(b) Possess education, examination, and experience qualifications that have been determined by the Board to be substantially equivalent to the qualifications under Business and Professions Code Section 5093. Pursuant to subdivision (b) of Business and Professions Code Section 5096, the Board accepts individual qualification evaluations of substantial equivalency by the National Association of State Boards of Accountancy's (NASBA's) CredentialNet. Prior to seeking a practice privilege under this paragraph, an individual shall apply to NASBA's CredentialNet, pay the required fee, and obtain the required substantial equivalency determination. The individual shall report the NASBA file number on the Notification Form submitted pursuant to Section 28 and shall authorize the Board to review the NASBA file upon request; or

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(c) Have continually practiced public accountancy as a Certified Public Accountant under a current, valid license issued by any state for four of the last ten years.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.

Reference: Section 5096, Business and Professions Code.

HISTORY:

1. New section filed 12-12-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50). For prior history, see Register 2000, No. 5.

Section 28. Notification.

(a) To obtain a practice privilege, an individual meeting the requirements of Section 27 shall notify the Board by submitting the fully completed Notification Form provided at the end of this Section or the electronic equivalent provided by the Board on its Web site, and shall pay the fee as required by Sections 31 and 70. Except for the electronic signature which is provided for in subsection (c), the electronic version of the form shall be identical in content to the paper version of the Notification Form provided at the end of this section.

(b) The license which shall be reported on Item 3 of "Qualification Requirements" on the Notification Form and "the license upon which the substantial equivalency is based" referenced in subdivision (e) of Business and Professions Code Section 5096 is the license under which an individual qualifies for a practice privilege pursuant to subsection (a) of Section 27, or the license in the state of the principal place of business for an individual who qualifies for a practice privilege under subsection (b) or (c) of Section 27.

(c) The electronic version of the Notification Form shall provide for a certification and electronic signature as follows:

I understand that any misrepresentation or omission in connection with this notification disqualifies me from the California practice privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. By typing my name in the box below and clicking the "I Agree" button I certify under penalty of perjury under the laws of the State of California that the forgoing information is true and correct. If I am not prepared to so certify, I understand that I should click the "Cancel" button to discontinue the notification process.

Full name _____

I Agree _____

Cancel _____

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.

Reference: Sections 5088, 5096, 5096.3, 5096.4, 5096.5, 5096.13, and 5096.15, Business and Professions Code; and Section 1633.2, Civil Code.

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HISTORY:

1. New section filed 12-12-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50). For prior history, see Register 2000, No. 5.
2. Change without regulatory effect amending the Notice form and amending Note filed 11-16-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 46).

Section 29. Term of the Practice Privilege.

(a) Except when prior approval by the Board is required pursuant to Section 32, the practice privilege commences on the date the Notification Form is electronically submitted to the Board, on the postmark date of a Notification Form submitted to the Board by mail, or on the date a Notification Form is submitted to the Board via facsimile. When prior approval by the Board is required pursuant to Section 32, the practice privilege commences on the date the practice privilege is approved by the Board.

(b) Except as provided in subsection (c), a practice privilege, including a practice privilege that is or has been on administrative suspension pursuant to Business and Professions Code Section 5096.4, expires one year from the date the Notification Form is submitted to the Board or on the date a subsequent Notification Form is submitted to the Board, whichever occurs first.

(c) A practice privilege held by an applicant for a California license expires one year from the date the Notification Form is submitted to the Board or on the date the California license is issued by the Board, whichever occurs first.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.

Reference: Sections 5088, 5096 and 5096.4, Business and Professions Code.

HISTORY:

1. New section filed 12-12-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50). For prior history, see Register 2000, No. 5.

Section 30. Safe Harbor – Period of the Notice.

(a) Notwithstanding Section 29, during the period January 1, 2006, through December 31, 2010, an individual shall not be deemed to be in violation of this Article or Article 5.1 of the Accountancy Act (commencing with Business and Professions Code Section 5096) solely because he or she begins the practice of public accounting in California prior to submitting the Notification Form, provided the Notification Form is submitted within five business days of the date practice begins. An individual who properly submits the Notification Form to the Board within the five-day period provided for in this Section shall be deemed to have a practice privilege from the first day of practice in California unless the individual fails to timely submit the required fee pursuant to Section 31.

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(b) Subsection (a) of this section does not apply in those instances in which prior approval by the Board is required pursuant to Section 32.

(c) In addition to any other applicable sanction, the Board may issue a fine of \$250 to \$5,000 for notifying the Board more than five business days after beginning practice in California. In assessing a fine amount, consideration shall be given to the factors listed in Section 95.3.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.

Reference: Sections 125.9, 5096, 5096.3, and 5096.14, Business and Professions Code.

HISTORY:

1. New section filed 12-12-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50).

2. Amendment of subsection (a) and Note filed 2-15-2008; operative 3-16-2008 (Register 2008, No. 7).

Section 31. Payment of the Fee.

The fee required by Section 70(h) must be received by the Board within 30 days of the date the Notification Form is submitted to the Board.

(a) In addition to any other applicable sanction, an individual is subject to a fine of \$100 to \$500 for the first failure to pay the practice privilege fee within 30 days of the commencement of the practice privilege, including attempting to pay with a check that is subsequently dishonored. In assessing a fine amount, consideration shall be given to the factors listed in Section 95.3.

(b) In addition to any other applicable sanction, an individual is subject to a fine of \$250 to \$1,000 for any subsequent occurrence of failure to pay the practice privilege fee within 30 days, including attempting to pay with a check that is subsequently dishonored. In assessing a fine amount, consideration shall be given to the factors listed in Section 95.3.

(c) In addition to the fines described in this Section and any other applicable sanction, an individual is also subject to an administrative suspension for failure to pay the fee, including attempting to pay with a check that is subsequently dishonored. This administrative suspension shall remain in effect until the Board gives its approval for the individual to resume practice and shall not extend the term of the practice privilege.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.

Reference: Sections 125.9, 5096, 5096.3, and 5096.4, Business and Professions Code.

HISTORY:

1. New section filed 12-12-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50).

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Section 32. Board Approval Required.

(a) An individual submitting a Notification Form pursuant to Section 28 who has any of the conditions listed in subsection (c) of this Section may not commence practice under a practice privilege without prior approval of the Board.

(b) A holder of a practice privilege who acquires any of the conditions listed in subsection (c) of this Section during the term of the practice privilege shall cease practicing immediately and shall not begin practicing again without prior approval of the Board.

(c) Conditions requiring Board approval to practice under a practice privilege:

(1) The individual is convicted of a crime other than a minor traffic violation.

(2) The individual has had a revocation, suspension, denial, surrender, or other discipline or sanction involving any license or other authority to practice any profession in California or in any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board (PCAOB), except for the following occurrences:

(A) An action by a state board of accountancy in which the only sanction was a requirement that the individual complete specified continuing education courses.

(B) The revocation of a license or other authority to practice public accountancy, other than the license identified in Item 3 of the Qualification Requirements on the Notification Form, solely because of failure to complete continuing education or failure to renew.

(3) The individual is the subject of an investigation, inquiry, or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving his or her professional conduct.

(4) The individual held a practice privilege in California that expired while under administrative suspension or with an unpaid fine.

(5) The individual has failed to respond to the satisfaction of the Board to a request for information from the Board regarding a matter related to a current or prior practice privilege.

(6) The individual has been notified by the Board that prior Board approval is required before practice under a new practice privilege may commence.

(7) The individual has had a judgment or arbitration award in an amount of \$30,000 or greater entered against him or her in a civil matter involving the professional conduct of the individual.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.

Reference: Section 5096, Business and Professions Code.

HISTORY:

1. New section filed 12-12-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50).

Section 33. Changes to Information on the Notification.

(a) An individual shall report in writing to the Board changes in the information reported on the Notification Form within 30 days of the change.

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(b) In addition to any other applicable sanctions, an individual is subject to a fine of \$250 to \$5,000 for failure to comply with the requirements of this Section. In assessing a fine amount, consideration shall be given to the factors listed in Section 95.3.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.
Reference: Sections 125.9, 5096, and 5096.3, Business and Professions Code.

HISTORY:

1. New section filed 12-12-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50). For prior history, see Register 62, No. 11.

Section 34. Response to Board Inquiry.

(a) In addition to any other applicable sanction, failure to comply with the obligation to respond to Board inquiry pursuant to Section 5096(e)(5) could result in one or more of the following:

- (1) Issuance of a fine of \$250 to \$5,000;
- (2) An administrative suspension of a current practice privilege pursuant to Business and Professions Code Section 5096.4; or
- (3) The requirement to obtain the approval of the Board before commencing to practice under a future practice privilege.

(b) In assessing a fine amount, consideration shall be given to the factors listed in Section 95.3.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.
Reference: Sections 125.9, 5096, 5096.3, and 5096.4, Business and Professions Code.

HISTORY:

1. New section filed 12-12-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50). For prior history, see Register 49, No. 4.

Section 35. Continuing Education Requirement.

An individual practicing under a practice privilege shall meet the continuing education requirements of the state of licensure identified in Item 3 of the Qualification Requirements on the Notification Form.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.
Reference: Sections 5096, Business and Professions Code.

HISTORY:

1. New section filed 12-12-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50). For prior history, see Register 83, No. 16.

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Section 35.1. Notice of Intent to Administratively Suspend.

(a) Prior to the issuance of an Administrative Suspension Order pursuant to Business and Professions Code Section 5096.4, the Executive Officer may issue to the holder of a practice privilege a Notice of Intent to Administratively Suspend. The Notice of Intent to Administratively Suspend shall be in writing and shall be mailed to the practice privilege holder's address of record.

(b) The Notice of Intent to Administratively Suspend shall include a description of the contents of the Administrative Suspension Order pursuant to subdivision (c) of Section 5096.4.

(c) The Notice of Intent to Administratively Suspend shall provide the holder with a specified period of time in which to respond in writing by showing cause to the Executive Officer why the Administrative Suspension Order should not be issued.

(d) The Executive Officer shall determine whether or not the Administrative Suspension Order shall be issued and shall so inform the practice privilege holder in writing.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.

Reference: Section 5096.4, Business and Professions Code.

HISTORY:

1. New section filed 12-12-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50).